



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL SUIT NO. 53 OF 2013

ANTHONY WAHOME.....APPLICANT

VERSUS

1. PARMINDER SAIMBI

2. AMOS WERU

3. RIAZ ABDULGANI (sued as officials and the management

Committee of KENYA REGIMENT RIFLE CLUB).....RESPONDENTS

RULING

1. The Applicant, a member of the Kenya Regiment Rifle Club was by a letter dated 15th February, 2013 written on behalf of the Respondents suspended and given an option to hand in his resignation within 30 days from the date of the letter upon which he would be automatically expelled from the club. He was in the said letter given an option of referring the matter to the parent association, Kenya Sports Shooting Federation and informed that pending the outcome of such an appeal, the disciplinary action taken shall still remain in force. Aggrieved by that decision, the applicant filed a notice of motion dated 22nd February, 2013 before this court. Among the orders sought in the said motion were:-
 - i. *That there be a stay of the decision of the Respondent to suspend the Applicant as contained in its letter dated 15th February, 2013 and any consequential orders pending hearing and determination of the application.*
 - ii. *That an order of a temporary injunction do issue against the Respondent restraining them from holding any disciplinary meeting against the applicant pending the hearing and determination of the application interparties and the suit and/or any further order of this court.*
 - iii. *A mandatory injunction to compel the Respondents to allow the Applicant to attend and participate in the annual general meeting that shall be held on 24th February, 2013.*
 - iv. *In the alternative, an order for temporary injunction be issued against the Respondents from holding its Annual General Meeting scheduled for 24th February, 2013 pending hearing and determination of this suit.*
 - v. *A declaration that the decision of the Respondent as contained in its letter dated 15th February, 2013 and addressed to the Applicant is null and void. A declaration that the current committee as constituted does not have powers and authority to sanction/dismiss or suspend the Applicant.*

2. On 27th February, 2013, this court, Waweru J., expressed his satisfaction upon reading the material before court that it was in the interest of justice that the matters be held in abeyance pending the hearing and determination of the application dated 22nd February, 2013 and proceeded to grant interim reliefs in terms of prayers 2 and 3 of that application (i and ii herein).
3. The Applicant has now filed the notice of motion dated 29th September, 2014 seeking orders that:-
 - i. ***That the Applicant be granted leave to institute contempt of court proceedings against PARMINDER SAIMBI, AMOS WERU & RIAZ ABDULGANI in their respective capacity as officials of the Respondent club.***
 - ii. ***That in the alternative to the above prayer, this court do grant leave to the Applicant to institute contempt proceedings against the current officials and management committee of the Respondent club.***
4. It was stated that on 30th September, 2014, in defiance of the court orders of 27th February, 2013, the club's Secretary Mr. Ashu Senik invited all members of the club via email to a Special General Meeting to be held on 14th April, 2013 at the Nairobi Sailing Club in Lang'ata. That on that date he was informed by the Management Committee that he was restrained from attending the Special General Meeting without being accorded any reason. He stated that he had been removed from the mailing list, that audited accounts, proposed amended constitution and invitation to a golden jubilee shoot scheduled for 8th December, 2013 have been sent to every member of the club except him. That on 4th December, 2013 he confirmed his participation via email and forwarded his fee via Mpesa money transfer service to 0702666998 registered in the names of Riaz Vayani, but he was informed via email that the event had reached its quota and that he would be refunded his money. Basically the Applicant's gravamen was that he had been locked out from the club's activities.
5. The 3rd Respondent swore a replying affidavit in opposition to the application. He contended that the Respondents are not in contempt of the court orders considering the wordings of the orders granted. It was contended that the club has a limit on the number of shooters who can shoot and that he was not the only member who did not receive emails. It was further contended that the standard required form of communication is not via email but by placing notices on the club's notice board.
6. I have considered the application herein and the deposition by the parties. At this stage all the Applicant is required to establish is that there is a valid order that has been disobeyed by the Respondents. There existence of a valid court order has not been denied. Although the Respondents have contended that they are not in contempt of court, I note that they have not addressed or specifically contended the issues raised by the Applicant that on 14th April, 2013 when all members of the club were via email summoned to a Special General Meeting to be held at the Nairobi Sailing Club in Lang'ata, the Applicant was informed by the Management Committee that he was restrained from attending the Special General Meeting without being accorded any reason. Restraining the Applicant from attending that particular meeting amounted to suspending him since he was a member entitled to attend the special general meeting which is disobedience to the court order. It is worth noting that contempt proceedings are applicable even to one who is not a party to a suit as long as he or she knew of the order and disobeyed it. I say so in regard to the current club officials. I am in the circumstances satisfied that there is sufficient justification for issuance of leave to the Applicant to bring contempt proceedings for the disobedience of the court order. Accordingly, the Applicant is at liberty to commence contempt proceedings against the Respondents and the current club officials within 21 days from this date.

Dated, Signed and Delivered in open court this 8th day of May, 2015.

J. K. SERGON

JUDGE

In the presence of:

Nadia Aziz h/b for Kimathi for the Appellant

N/A for the Respondents